

**DECISION of the SNOHOMISH
COUNTY HEARING EXAMINER PRO TEM**

DATE OF DECISION: July 17, 2008

PROJECT NAME: *The Cool Place*

APPLICANT/
LANDOWNER: ASC Development, LLC
17819 44th Avenue West
Lynnwood, WA 98037

FILE NO.: 07-104238-000-00-LU

TYPE OF REQUEST: **REZONE** from Residential-9600 (R-9600) to Low Density Multiple Residential (LDMR).

DECISION (SUMMARY): **APPROVED**

BASIC INFORMATION

GENERAL LOCATION: The subject property is located at 2918 122nd Street SW, Everett, WA

Acreage: 0.49 acres

Current Zoning: R-9,600

Proposed Zoning: Low Density Multiple Residential (LDMR)

Comprehensive Plan
General Policy Plan: Urban Medium Density Residential

School District: Mukilteo School District 6

Fire District: No. 1

Water Source: Alderwood Water & Wastewater District

Sewer Service: Alderwood Water & Wastewater District

SELECTED AGENCY RECOMMENDATIONS:

Department of Planning and Development Services: Approve

INTRODUCTION

The applicant requests a rezone of a 0.49 acre site from R-9,600, to Low Density Multiple Residential (LDMR), administrative site plan approval and grading permit for the future development of a 5-unit residential development consisting of two duplex units and one single-unit detached structure. (Exhibit 1) The rezone is before the Hearing Examiner for approval but the administrative site plan and grading permit can be approved administratively by Planning and Development Services staff. Before Planning and Development Services staff can administratively approve the administrative site plan the Hearing Examiner must first approve the requested rezone from R-9,600 to LDMR.

The Hearing Examiner (Examiner) made a site familiarization visit on July 14, 2008, in the afternoon.

The Department of Planning and Development Services (PDS) and applicant gave proper public notice of the open record hearing as required by the County code. (Exhibits 6A, Mailing., 6B Publication, 6C Posting)

A SEPA determination was made on June 2, 2008. (Exhibit 5B) No appeal was filed.

The Examiner held an open record hearing on Tuesday, July 15, 2008, the 125th day of the 120-day decision making period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

PUBLIC HEARING

The public hearing commenced on July 15, 2008 at 9:05 a.m.

1. The Examiner indicated that he has read the PDS staff report, reviewed the file and viewed the area and therefore has a general idea of the particular request involved.
2. Roxanne Pilkenton, Senior Planner, PDS appeared and testified under oath. She presented the staff report and answered questions from the Examiner. Jesse Jarrell, agent for the applicant, appeared and testified under oath. He gave a presentation on the nature of the application and answered questions from the Hearing Examiner.

The hearing concluded at 9:17 a.m.

NOTE: The above information reflects the information submitted to the Examiner summarizing the statements that were made at the hearing. However, for a full and complete record, verbatim audio tapes of the hearing are available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS:

1. The master list of Exhibits and Witnesses which is a part of this file and which exhibits were considered by the Examiner, is hereby made a part of this file, as if set forth in full herein.

2. Two e-mails of concern were received during the review of this project. (Exhibits 9B and 9M) The concerns relate to the volume of residential development in recent years, density and traffic issues. Residential development and density is discussed in the GMA Comprehensive Plan, Zoning and Rezone sections of this decision. Traffic issues are discussed in the Traffic Mitigation and Road Design Standards section. One of the commentators mentioned the septic systems in the established houses. Testimony in the public hearing indicated that there are sewer lines in the vicinity to which these houses potentially could connect.

PDS and the applicant did not identify any other issues of concern related to the subject applications.

3. Agency letters are Exhibits 8B1 -8C7.
4. The applicant requests a rezone of a 0.49 acre site from R-9,600, to Low Density Multiple Residential (LDMR), administrative site plan approval and grading permit for the future development of a 5-unit residential development consisting of two duplex units and one single-unit detached structure. (Exhibit 1) The rezone is before the Hearing Examiner for approval but the administrative site plan and grading permit can be approved administratively by Planning and Development Services staff. Before Planning and Development Services staff can administratively approve the administrative site plan the Hearing Examiner must first approve the requested rezone from R-9,600 to LDMR.
5. The property consists of two parcels which are partially developed with one existing home and an asphalt driveway. The majority of the site generally slopes towards the southeast towards the eastern boundary line of the site. Slopes on site are flat to moderate ranging from 2% to 8%. The existing structure is proposed to be removed.
6. Nearby properties located to the east and west of the site, are currently zoned LDMR and consist exclusively of single-family detached condos. Other recent developments, directly to the north and south, include rezones to PRD-7200. The remaining properties in the general area (radius of approximately 600 feet) range in zoning from R-9,600 to PRD-LDMR with the majority of the area zoned to LDMR.
7. The project would comply with park mitigation requirements under Chapter 30.66A SCC (Title 26A SCC) by the payment of \$1,244.49 for each new single-family home. However, as this is not a development application these fees are not imposed as part of this decision.
8. PDS Traffic reviewed the proposal for compliance with Title 13 and Chapter 30.66B of Snohomish County Code, Snohomish County Engineering Design and Development Standards (EDDS), and the appropriate policies and procedures.

1. Road System Impact Fee [SCC 30.66B.310]

A development must mitigate its impact upon the future capacity of the road system by paying a road system impact fee reasonably related to the impacts of the development on arterial roads located in the same transportation service area as the development, at the rate identified in SCC 30.66B.330 for the type and location of the proposed development.

The development will generate 38.28 new average daily trips (ADT) and has a road system impact fee of \$10,220.76 (\$2,044.15/unit) based on \$267/ADT, the current fee rate for residential developments inside the urban growth area, for TSA D. These figures do not include credit for on-site TDM measures. Consistent with SCC 30.66B.340, payment of this road system impact fee is required prior to building permit issuance and will be made a condition of the site development permits.

The estimates of trip generation for the development are based on the 7th Edition of the Institute of ITE Trip Generation Report as follows:

- ITE Land Use Category: Single Family Residential
- ITE Land Use Code: 210
- Applicable Measurement Unit (ITE Independent Variable): 9.57 adt/unit
- Number of applicable measurement units for this development: 4 new units

Trips	Calculations	
ADT	$(5 \text{ New SFR} - 2 \text{ Exist.}) \times (9.57 \text{ ADT/SFR}) =$	38.28
AM PHT	$(5 \text{ New SFR} - 2 \text{ Exist.}) \times (0.75 \text{ AM PHT/SFR}) =$	3.00
PM PHT	$(5 \text{ New SFR} - 2 \text{ Exist.}) \times (1.01 \text{ PM PHT/SFR}) =$	4.04

2. Concurrency [SCC 30.66B.120]

Since this development will not impact any arterial unit in arrears, nor will it cause any arterial unit to fall in arrears, and does not impact any designated ultimate capacity arterial units, it is deemed concurrent. A concurrency certificate has been included with Public Works’ final recommendation, which will expire six calendar years from the date the concurrency determination was made. Prior to the expiration date of the development’s concurrency certificate, plat construction shall have been obtained, or a new concurrency determination will be required.

3. Inadequate Road Condition (IRC) [SCC 30.66B.210]

The subject development proposal will not impact any IRC locations identified within the TSA D with three or more of its p.m. peak hour trips, nor will it create any. Therefore, it is anticipated that mitigation will not be required with respect to inadequate road conditions and no restrictions to building permit issuance or certificate of occupancy/final inspection will be imposed under this section of Chapter 30.66B SCC.

4. Frontage Improvements [SCC 30.66B.410]

As per DPW Rule 4222.020(1) full urban frontage improvements are required along the subject parcel’s frontage on 122nd Street SW and consist of: Asphalt concrete pavement consisting of 18 feet width from roadway centerline to the face of curb; Cement concrete curb and gutter; Planter strip with a width of 5 feet; Cement concrete sidewalk with a width of 5 feet. As per DPW Rule 4222.020(1) full urban frontage improvements are required along the subject parcel’s frontage on 30th Avenue W and consist of: Asphalt concrete pavement consisting of 18 feet width from roadway centerline to the face of curb; Cement concrete curb and gutter; Planter strip with a width of 5 feet; Cement concrete sidewalk with a width of 5 feet. The County Engineer reviewed a deviation to the design standards to allow for the construction of a 5 foot sidewalk instead of the 7 foot wide sidewalk required by the EDDS. The deviation was approved that will allow for the construction of the 5 foot wide sidewalk along the 122nd Street SW and 30th Avenue W frontages (Exhibit 7).

The roads, 122nd Street SW and 30th Avenue W, on which the development's frontage improvements are required, are not in the impact fee cost basis (Appendix D of the Transportation Needs Report), therefore credits towards the applicant's impact fee for any frontage improvements that can be used in the ultimate build-out of the road are not applicable.

Construction of frontage improvements is required prior to any occupancy of the development, with will be made a condition of the administrative site and construction plan approvals.

5. Access and Circulation [SCC 30.66B.420]

All developments are required to provide for access and transportation circulation in accordance with the comprehensive plan and SCC 30.66B.420, design and construct such access in accordance with the EDDS, and improve existing roads that provide access to the development in order to comply with adopted design standards, in accordance with SCC 30.66B.430.

Offsite road improvements are not required and the onsite drive aisle will be constructed to meet the minimum fire code. Access into the site will be provided by a drop curb access per the EDDS.

6. Dedication of Right-of-Way [SCC 30.66B.510 and 30.66B.520]

A development shall be required to dedicate, establish, or deed right-of-way to the county for road purposes as a condition of approval of the development, when to do so is reasonably necessary as a direct result of a proposed development, for improvement, use or maintenance of the road system serving the development.

The road serving this development, 122nd Street SW, is designated as a non-arterial collector on the County's Arterial Circulation Map. This requires a right-of-way width of 30 feet on each side of the right-of-way centerline. Currently, 30 feet of right-of-way exists on the development's side of the right-of-way. Therefore, the development is required to deed zero (0) feet of additional right-of-way.

The road serving this development, 30th Avenue West, is designated as an arterial collector on the County's Arterial Circulation Map. This requires a right-of-way width of 35 feet on each side of the right-of-way centerline. Currently, 30 feet of right-of-way exists on the development's side of the right-of-way. Therefore, 5 feet of additional right-of-way is required, which has been shown on the plans. The additional right-of-way shall be deeded to the County prior to building permit issuance, which will be made a condition of the administrative site and construction plan approvals.

7. State Highway Impacts [SCC 30.66B.710]

When a development's road system includes a state highway, mitigation requirements will be established using the County's SEPA authority consistent with the terms of the interlocal agreement between the County and the WSDOT. This is consistent with the County's SEPA policy SCC 30.61.230(9), through which the county designates and adopts by reference the formally designated SEPA policies of other affected agencies for the exercise of the County's SEPA authority.

In Exhibit 8B2 WSDOT states, “In compliance with the Interlocal Agreement between WSDOT and Snohomish County, as mitigation for this development impact to State highways, we request the applicant to either: contribute \$36.00/ADT towards impacted State highways, we request the applicant to either contribute \$36.00/ADT towards the impacted State highway project or prepare a traffic report to determine impacts of this development’s traffic on individual State highway improvement projects”.

The applicant has offered to pay \$36/new ADT, \$1,378.08, for traffic impact to the state highway system per the interlocal agreement between the WSDOT and the Snohomish County (Exhibit 8B2). The fees will be made a condition of site development permits.

8. Other Streets and Roads [SCC 30.66B.720]

There are no other jurisdictions that have an interlocal agreement with the county that will be significantly impacted by the subject development.

9. Transportation Demand Management (TDM) [SCC 30.66B.630]

Transportation demand management (TDM) is a strategy for reducing vehicular travel demand, especially by single occupant vehicles during commuter peak hours. TDM offers a means of increasing the ability of transportation facilities and services to accommodate greater travel demand without making expensive capital improvements. The County requires TDM of developments inside the UGA and developments that impact arterial units designated as ultimate capacity.

All new developments in the urban area shall provide TDM measures. Sufficient TDM measures shall be provided to indicate the potential for removing a minimum of five (5) percent of the development’s p.m. peak hour trips from the road system. This requirement shall be met by the provisions of site design requirements under SCC 30.66B.640, as applicable, except where the development proposes construction or purchase of specific offsite TDM measures or voluntary payment in lieu of site design, in accordance with SCC 30.66B.620 and SCC 30.66B.625.

Since a TDM plan was not submitted with the initial application a cash payment is required. The trip reduction percentage for this development is five (5) percent. The TDM obligation for this development is therefore equivalent to five (5) percent of the 4.04 new p.m. peak hour trips x \$1,500.00 which equals \$303.00 (\$60.50/lot). A written offer for payment of this TDM has been submitted by the applicant (Exhibit 2E1). The fees will be made condition of site development permits.

9. Pursuant to Chapter 30.66C SCC, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Mukilteo School District No. 6 at the time of building permit submittal and collected at the time of building permit issuance for the proposed units. Credit is to be given for two existing lots. Payment of school mitigation fees is required prior to building permit issuance and will be made a condition of the administrative site and construction plan approvals.

Comments from the Mukilteo School District No. 6 dated May 29, 2007 (Exhibit 8C6) indicate that mitigation fees to be paid as per GMA Ordinance and that transportation comments will be mailed separately. PDS received comments transportation comments from Mukilteo School District dated (Exhibit 8C7). Because the subject applicant’s completeness date is prior to June 4, 2007, the effective date of Ordinance 07-022 (Single Family detached Units Chapter 30.41F SCC), and is therefore not subject to the requirements of Chapter 30.41F SCC.

10. The PDS Engineering Section provided the following analysis of the proposed development, including the construction plans (Exhibits 2B-2K) and the Full Drainage Report (Exhibit 3B).

The proposed drainage design for this development will collect the runoff from the impervious surfaces on the site in a pipe and catch basin system and convey the flows to an underground detention system where the peak runoff rate will be controlled and released at the rates based on the pre-existing conditions established by SCC 30.63A.210(1). The runoff from the pavement on site will be routed through a canister type water quality treatment unit prior to entering the detention system.

The amount of grading on site is identified at 475 cubic yards. This volume of earthwork is below the threshold established in SCC 30.61.035(1)(e) that would require SEPA review.

Drainage impacts are addressed by the required adherence to the county drainage code, SCC 30.63A, and other applicable police power regulations. Those requirements ensure that concerns about drainage impacts are addressed in conformity with county and state standards. SCC 30.63A requires submittal and implementation of a full drainage plan for this proposal. PDS has reviewed the submitted drainage plan and report articulating the drainage concept detailed above, from which it concludes that the proposal can conform to drainage code requirements. Full drainage plan review has been conducted and PDS concludes that the proposed drainage system for the development conforms to SCC 30.63A.

Based on the design presented on the grading plan that the proposed development conforms to the requirements of SCC 30.63B (County Grading Code).

11. There are no critical areas on or within 100 feet of this site. The proposal is located outside of any shoreline environment.

12. UTILITIES

Water

Water will be supplied by the Alderwood Water and Wastewater District. A Certificate of Water Availability was received on June 22, 2007 (Exhibit 8C1).

Sewer

Sewer will be supplied by the Alderwood Water and Wastewater District. A Certificate of Sewer Availability was received on June 22, 2007 (Exhibit 8C2).

Electricity

Snohomish County Public Utility District provided correspondence indicating that it can provide electrical service for the project on June 1, 2007 (Exhibit 8C3).

Health District

Snohomish Health District recommended approval of the rezone and administrative site plan on June 11, 2007 (Exhibit 8B1), on condition that the on-site sewage disposal system be abandoned. This will be made a condition of the administrative site and construction plan approvals.

13. Fire Code: The subject rezone and proposed future development plan was reviewed by the County Fire Marshal's Office. The Fire Marshal's reviewer provided the following comments/conditions:

- The existing fire hydrant meets the minimum spacing requirements. Prior to construction the developer shall provide this office with a final certificate of water availability stating that the required 1,000 gpm is available for a 2 hour duration. The fire hydrant shall be provided with a 4” STORZ fitting. A blue street reflector on the hydrant side of the centerline shall be installed.
- The fire land shall be provided with signage as indicated on the site plan;
- Each building shall have individual building addresses. Street signage shall be posted prior to any occupancy as indicated on the site plat;
- Fire apparatus access as depicted meets the minimum requirements of Snohomish County Code 30.53A.150 and we have no further requirements.

As previously found a Preliminary Certificate of Water Availability from the Alderwood Water and Wastewater District (Exhibit 8C1) has been provided indicating that an adequate water supply can be provided that meets the fire flow requirements of SCC 30.53A.300 and Appendix III-A of the IFC. As noted above, a Final Certificate of Water Availability will be required prior to combustible construction.

Appropriate conditions shall be placed on the administrative site and construction plan approvals. As such, the subject rezone and proposed future development meets the applicable requirements of Chapter 30.53A SCC, and the International Fire Code.

14. The proposed rezone is in compliance with the GMA. The subject property is designated Urban Medium Density Residential on the General Policy Plan (GPP) Future Land Use Map and is located within an Urban Growth Area. Land in this category may be developed at a density of six to twelve dwelling units per acre. It is not located within a mapped Growth Phasing Overlay. According to the GPP, the Urban Medium Density Residential designation "covers various sub-area plan designations which allow a combination of detached homes on small lots, townhouses, and apartments in low density, multifamily residential developments. Land in this category may be developed up to a maximum density of twelve dwelling units per acre. Implementing zones include the LDMR, PRD-LDMR, Townhouse, R-7,200, PRD-7,200 and WFB zones." The requested rezone is consistent with the General Policy Plan’s Urban Medium Density Residential designation of the property.

In addition to the GPP’s direct statement that LDMR is an appropriate implementing zone for lands designed UMDR, so as to allow housing developments like the subject proposal, the following are the relevant Goals and Policies of the GPP that apply to this application:

The GMA requires that urban growth areas (UGAs) be designated through the county’s plan. UGAs are to include areas and densities sufficient to permit the urban growth that is projected to occur in the county over the next twenty years. Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. (LU-1)

GOAL LU 1 Establish and maintain compact, clearly defined, well designed UGA’s.

Objective LU 1.A. Establish UGAs with sufficient capacity to accommodate the majority of the county’s projected population and employment growth over the next 20 years.

LU Policy 1.A.3 Snohomish County shall ensure a no net loss of housing capacity that preserves the County’s ability to accommodate the 2025 growth targets, while pursuing compliance with all relevant federal, state and local laws and regulations.

COMMENT: The subject property is located in an area that is in essence “...already characterized by urban growth that have adequate existing public facilities and service capacities...”. The site is located in an area that has established neighborhoods consisting of a mix of new low, medium and high density single-unit development. Public facilities and service such as, but not limited to, roads, sidewalks, water, sewer and storm collection currently exist, are being constructed, or have been approved to be constructed throughout the general vicinity. Fire protection and law enforcement service are available.

Urban Development Patterns (LU-15)

To promote efficient utilization of land within unincorporated UGAs, the county will encourage well-designed, more pedestrian-friendly urban development patterns with a greater mix of uses and a more efficient, creative use of land. By improving land use efficiency in UGAs, several GMA objectives can be accomplished:

- reduced dependence on the automobile;
- increased support for public transportation;
- improved air quality;
- increased choice of housing types;
- improved efficiency of infrastructure provision and usage; and
- reduced consumption of rural lands.....

.....To improve the efficiency of urban residential land utilization, planning with UGAs and development regulations will ensure that future residential subdivisions will achieve a minimum net density of 4 to 6 dwelling units per acre except in areas within or near critical areas that are large in scope, with a high rank order value, and are complex in structure and function. In addition, the county will provide for higher density and mixed use housing types around and within centers and along major transportation corridors; encourage infill and intensification of areas at existing residential densities; and also broaden the variety of housing types within both traditional single family and multi-family neighborhoods while respecting the vitality and character of established residential neighborhoods. A mix of housing types with a range of densities will be encouraged throughout UGAs, as long as they are carefully sited, well designed, and sensitively integrated into existing communities.

GOAL LU 2 Establish development patterns that use urban land more efficiently.

Objective LU 2.A Increase residential densities within UGAs by concentrating and intensifying development in appropriate locations.

LU Policy 2.A.3 Any UGA shall provide for a variety of residential densities identifying minimum and maximum allowable. Density ranged shall consider the presence of critical areas.

- LU Policy 2.A.4 Any UGA shall provide opportunities for a mix of affordable housing types (e.g. small lot detached, townhouses, duplex, triplex, 6 to 8 unit apartment and small group housing units) within medium density residential areas.
- LU Policy 2.A.5 Medium and high density residential development (including elderly and disabled housing) shall be encouraged to locate, where possible, within walking distance of transit access or designated transit corridors, medical facilities, urban centers, parks and recreational amenities.
- LU Policy 2.A.6 Within UGAs, alternatives to standard single family designs such as zero lot line housing and cottages on small lots around a central courtyard, shall be considered in development regulations for residential areas.
- Objective HO 1.B Ensure that a broad range of housing types is available in rural and urban areas.
- HO Policy 2.B.1 The county shall encourage a variety of housing types and densities in residential neighborhoods.

COMMENT: There are no critical areas on or adjacent to the neither subject site, nor are it located within a shoreline environment, and as such, mitigation is not required or recommended.

The nearest parks are Kasch Park, located at 8811 Airport Road, and Walter E. Hall Park, located at 1226 SW Casino Road (City of Everett Parks website).

Transit service in the general vicinity is provided by Community Transit (CT). PDS has reviewed the CT website (www.communitytransit.org) indicates that the nearest bus stops are at SR 99 and Gibson Road (CT Stop 1024), approximately .76 miles from the subject stop. Having public transit available within a mile proximity may provide for the subject development’s occupants to be less dependant on personal automobiles, as well as provide access to commercial facilities such as retail stores, restaurants, professional services, medical services, etc.

The current “mix” of housing types existing in the vicinity consists of a mix of older and newly constructed single-family residences on small to medium size lots. An LDMR development has been approved to the west (Grooms LDMR PFN 06-129672) which has been approved for 14 single-family units on 1.38 acres. An LDMR development to the east (Stallings LDMR PFN 06-133141) is being reviewed for five single family units on .64 acres. The development activity consisting of duplex and single-family structures fits in with the residential character of the existing neighborhood, and adds to the mix of housing/ownership types already existing and being constructed in the vicinity.

- TR Policy 1.C.2 Adequate access to and circulation within all developments shall be maintained for emergency service....
- TR Policy 1.C.9 Existing roadways shall be improved to meet adopted design standards in order to enhance the safety and mobility of pedestrians....as part of construction of frontage improvements by developments....

- TR Policy 1.C.12 The county shall require that development make access and/or circulation provisions for arterials designated by the comprehensive plan and for needed local roadways to include, but not be limited to: (a) dedication of right-of-way, (b) reservation of right-of-way, (c) design for potential way of access, (d) recording of easements, (e) location of public or private roads, (f) design and construction of public or private roads (including stub-roads), and/or (g) improvements to existing roads.
- TR Policy 4.D.2 Vehicle access shall be limited to collector arterials and local roads as a condition of development whenever practicable.
- TR Policy 4.D.6 Driveways shall be located in a manner that provides adequate sight distance for all traffic movements and does not interfere with traffic operations at intersections.
- TR Policy 4.D.7 On-site traffic circulation shall be designed in a way that allows safe and efficient storage and movement of driveway traffic.
- TR Policy 4.D.8 Driveway and traffic flow restrictions shall be used to allow safe and efficient access for emergency vehicles when needed.
- TR Policy 5.B.5 Developments shall be required to provide, or contribute to, reasonable transportation demand management measures that improve roadway efficiency and operations.

COMMENT: Access to the development is provided via one private drive-aisle off of 122nd Street SW (Stallings Road), which is designated as a collector non-arterial on the County’s Arterial Circulation Map. As proposed the future development meets applicable code requirements for off-street parking, drive-aisle widths and maneuverability. Frontage improvements are proposed for the future development (Exhibit 2F2), and there are no issues concerning site distance. The applicant has offered to contribute to transportation demand measures (See Section 9 of Traffic Mitigation and Road Design Standards section above). The Snohomish County Fire Marshal’s Office has provided comment documenting that the proposed future development meets the applicable fire codes (See Uniform Fire Code section above). The proposed drive-aisle will be marked with signage and/or striping stating “NO PARKING – FIRE LANE”.

CF Policy 7.1 The county shall utilize impact fees as authorized under the GMA to help fund the cost of parkland and facilities expansion and as required to serve new development.

COMMENT: The proposed future development will be subject to parks impact fees, to be collected at the time of building permit issuance (see “Parks Mitigation” section above).

- Objective UT 2.A All new residential developments should be able to demonstrate the availability of a potable water supply meeting state water quality standards and of sufficient capacity to serve domestic requirements.

UT Policy 2.A.1 The county shall review new residential projects requiring land use or construction permit approval for the availability of an adequate water supply.

UT Policy 3.A.1 The county shall review new residential project within urban growth areas requiring land use or construction permit approval for the availability of an adequate public wastewater and treatment system.

COMMENT: As previously found Alderwood Water and Wastewater District (Exhibit 8C1 and 8C2), water and sewer will be available to serve the proposed development. The Snohomish County PUD #1 indicates that it has sufficient capacity to provide electrical service to the proposed development (Exhibit 8C3).

The proposed rezone and proposed future development plan is consistent with the “Urban Development Patterns” statement for encouraging and broadening the mix of urban housing types, promoting more efficient utilization of land within UGAs and reducing consumption of rural lands; the proposed development plan will implement as well as encourage the variety of a mix of urban housing types in the general vicinity, including traditional single-family infill of an established single-family neighborhood; the proposed development activities conform to GMA adopted development regulations.

Specific analysis of the proposed development plan as well as the subject rezone included impacts associated with traffic, storm drainage, parks and recreation, public schools, and zoning code provisions addressing compatibility with surrounding properties (bulk regulations and landscape buffers). Future approval of construction permits, consistent with such evaluation and administrative site plan approval will substantiate GMA code compliance prior to permit issuance. Such approvals will sufficiently mitigate for future impacts associated with development patterns, site design and sensitively integrating site development into the immediate community.

Based upon a review and analysis of the rezone, administrative site plan proposal, and expected future development activity the Examiner finds that current GMA adopted regulations, governing future site development activity, will implement such Goals, Objectives, and Policies and thus specific development activity, the subject request bears a substantial relationship to the public health, safety and welfare.

The Examiner has also relied upon the comprehensive plan analysis provided by the applicant; (Exhibit 1F) thus, adopts and incorporates by reference said document into this decision.

15. The future proposed development will be subject to GMA adopted zoning regulations. The future development meets the bulk regulations applicable to LDMR zoning. The proposal provides the required landscape buffers and parking area landscaping treatment. The proposal identifies building setbacks and building separations consistent with applicable regulatory requirements.

The future site development provides on-site vehicular access to individual units and required parking. It identifies sufficient parking stalls for accommodating resident needs consistent with provisions of parking standards. It provides for necessary emergency vehicle ingress and egress consistent with provisions of parking standards. It provides for necessary emergency vehicle ingress and egress consistent with requirements of the County Fire Marshal.

The future development activity reviewed concurrently with the rezone application conforms to the GPP goals, objectives, and policies and is consistent with GMA adopted development regulations governing setbacks, height, and landscaping buffers that address compatibility within a transitioning single-family, multi-family area. As such, the future development plan, consistent with regulatory codes, will bear a substantial relationship to the public health, safety and welfare.

In reliance upon PDS review and analysis of applicable policies (indicated in the staff report) and GMA development regulations adopted to implement standards for future multi-unit development the Examiner finds that adopted development regulations will address potential impacts and compatibility issues associated with future site development.

A preliminary review of the proposed future development activity has established that: multi-unit development can be achieved on the subject property in conformance to GMA adopted construction regulations and standards; and, that future construction approvals will document such code compliance prior to permit issuance.

16. Under SCC 30.42A.100, the hearing examiner may approve a rezone only when all the following decision criteria are met.
 - (a) The proposal is consistent with the comprehensive plan.
 - (b) The proposal bears a substantial relationship to the public health, safety, and welfare; and
 - (c) Where applicable, minimum zoning criteria found in chapters 30.31A through 30.31F SCC are met.

Specific findings required for the rezone application are as follows:

- A. The rezone proposal is consistent with the Comprehensive Plan. The subject property is located within an Urban Growth Area (UGA) and is designated Urban Medium Density Residential (UMDR) on the GPP Future Land map. The GPP states that LDMR is an implementing zone for lands designated UMDR and that housing of various types should be directed to the UGA. Therefore, based on the finding that the subject property is designated Urban Medium Density Residential (UMDR) on the GPP Future Land Use map the requested rezone is consistent with the adopted comprehensive plan.
 - B. The requested rezone bears a substantial relationship to the public health, safety, and welfare. The requested rezone conforms to the Comprehensive Plan, and through detailed review by PDS adequate provisions have been made to ensure compliance with the County's development codes in the UDC. Therefore, the rezone implements public policy and advances the public health, safety and welfare.
 - C. The minimum zoning criteria found in Chapters 30.31A through 30.31F SCC are NOT applicable to this application.
17. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion, is hereby adopted as such.

CONCLUSIONS:

1. The Examiner has jurisdiction to hear this matter and render a decision thereon.

2. The request is consistent with the GMACP; GMA-based County codes; and the type and character of land use permitted on the site and the permitted density with the applicable design and development standards.
3. The request is for a rezone and therefore must comply with Chapter 30.42A. This is a site-specific rezone that conforms to the Comprehensive Plan.
4. Adequate public services and adequate provisions for the public health, safety and general welfare exist to serve the proposal.
5. As found above, the short plat portion of the application shall be handled administratively by PDS and this decision does not address that issue.
6. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION:

The requests for a **REZONE** are hereby **APPROVED**.

Decision issued this 17th day of July, 2008.

James A. Densley, Hearing Examiner Pro Tem

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

The decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. However, reconsideration by the Examiner may also be sought by one or more parties of record. The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council Rules of Procedure.

Reconsideration

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **JULY 28, 2008**. There is no fee for filing a petition for reconsideration. **“The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.” [SCC 30.72.065]**

A petition for reconsideration does not have to be in a special form but must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner's attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

The grounds for seeking reconsideration are limited to the following:

- (a) The Hearing Examiner exceeded the Hearing Examiner's jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing Examiner's decision;
- (c) The Hearing Examiner committed an error of law;
- (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by the record;
- (e) New evidence which could not reasonably have been produced and which is material to the decision is discovered; or
- (f) The applicant proposed changes to the application in response to deficiencies identified in the decision.

Petitions for reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.72.065. Please include the County file number in any correspondence regarding this case.

Appeal

An appeal to the County Council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **JULY 31, 2008** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00); PROVIDED, that the filing fee shall not be charged to a department of the County or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

An appeal must contain the following items in order to be complete: a detailed statement of the grounds for appeal; a detailed statement of the facts upon which the appeal is based, including citations to specific Hearing Examiner findings, conclusions, exhibits or oral testimony; written arguments in support of the appeal; the name, mailing address and daytime telephone number of each appellant, together with the signature of at least one of the appellants or of the attorney for the appellant(s), if any; the name, mailing address, daytime telephone number and signature of the appellant's agent or representative, if any; and the required filing fee.

The grounds for filing an appeal shall be limited to the following:

- (a) The decision exceeded the Hearing Examiner's jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching his decision;
- (c) The Hearing Examiner committed an error of law; or
- (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by substantial evidence in the record. [SCC 30.72.080]

Appeals will be processed and considered by the County Council pursuant to the provisions of Chapter 30.72 SCC. Please include the County file number in any correspondence regarding the case.

Staff Distribution:

Department of Planning and Development Services: Roxanne Pilkenton

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation." A copy of this Decision is being provided to the Snohomish County Assessor as required by RCW 36.70B.130.